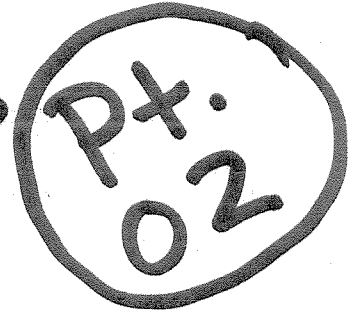




State of Wisconsin

LEGISLATIVE REFERENCE BUREAU



RESEARCH APPENDIX - **PLEASE DO NOT REMOVE FROM DRAFTING FILE**

Date Transfer Requested: 06/08/2005 (Per: PJK)



☞ The 2005 drafting file for LRB 05-0243/**P5** has been

copied/added to the 2005 drafting file for

LRB 05b0301

☞ The attached 2005 draft was incorporated into the new 2005 draft listed above. For research purposes, this cover sheet and the attached drafting file were copied, and added, as a appendix, to the new 2005 drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.

☞ This cover sheet was added to rear of the original 2005 drafting file. The drafting file was then returned, intact, to its folder and filed.



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-0243/PJ
PJK:jld:rs

P2

Week of April 25th

+JK

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please check
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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D-ute

regenerate ✓

1 AN ACT *to repeal* 149.10 (3e), 149.10 (4m), 149.10 (6), 149.10 (10), 149.14 (1) (b),
2 149.14 (4), 149.14 (4c), 149.14 (5), 149.14 (5m), 149.14 (6) (a), 149.14 (8), 149.142
3 (1) (b), 149.142 (2), 149.144, 149.145, 149.146 (2), 149.15, 149.16, 149.165,
4 149.17, 149.175, 149.20, 149.25 (3) (c), 632.785 (1) (a), 632.785 (1) (b), 632.785
5 (1) (c) and 632.785 (1) (d); *to renumber* 25.55 (3), 25.55 (4), 149.10 (2m) and
6 149.14 (6) (b); *to renumber and amend* 20.435 (4) (u), 20.435 (4) (v), 25.55
7 (intro.) (except 25.55 (title)), 149.14 (1) (a), 149.14 (4m), 149.142 (1) (a) and
8 632.785 (1) (intro.); *to consolidate, renumber and amend* 149.146 (1) (a) and
9 (b); *to amend* 25.55 (title), chapter 149 (title), 149.10 (2), 149.10 (3), 149.10 (9),
10 149.115, 149.13 (1), 149.13 (3) (a), 149.13 (3) (b), 149.13 (4), 149.14 (2) (a), 149.14
11 (7) (b), 149.14 (7) (c), 601.41 (1), 601.415 (12), 601.64 (1), 601.64 (3) (a), 601.64
12 (3) (c), 601.64 (4), 613.03 (4) and 632.785 (title); *to repeal and recreate* 149.11,
13 149.12, 149.14 (3) and 149.143; and *to create* 20.437, 25.55 (2) (intro.), 149.10

(2h) and 149.141 of the statutes; **relating to:** administration of the Health Insurance Risk-Sharing Plan.

Analysis by the Legislative Reference Bureau ✓

This is a preliminary draft. An analysis will be provided in a later version.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 20.435 (4) (u) of the statutes is renumbered 20.437 (1) (u) and amended to read:

20.437 (1) (u) ~~Health insurance risk-sharing plan; Program administration.~~
Biennially, from the health insurance risk-sharing plan Health Insurance Risk-Sharing Plan fund, the amounts in the schedule for the administration of the Health Insurance Risk-Sharing Plan under ch. 149, subject to s. 149.143 (2m).

SECTION 2. 20.435 (4) (v) of the statutes is renumbered 20.437 (1) (v) and amended to read:

20.437 (1) (v) ~~Health Insurance Risk-Sharing Plan; program~~ Program benefits.
All moneys received by the Health Insurance Risk-Sharing Plan fund, except for moneys appropriated under par. (u), for the operating costs of the Health Insurance Risk-Sharing Plan under ch. 149, including premium, deductible, and prescription drug copayment subsidies, subject to s. 149.143 (2m).

SECTION 3. 20.437 of the statutes is created to read:

20.437 Health Insurance Risk-Sharing Plan ~~There is~~ ^(B) Board There is appropriated to the Health Insurance Risk-Sharing Plan Corporation for the following programs:

(1) OPERATION OF HEALTH INSURANCE RISK-SHARING PLAN.

1 SECTION 4. 25.55 (title) of the statutes is amended to read:

2 25.55 (title) ~~Health insurance risk-sharing plan~~ Insurance
3 Risk-Sharing Plan fund.

4 SECTION 5. 25.55 (intro.) (except 25.55 (title)) of the statutes is renumbered
5 25.55 (1) and amended to read:

6 25.55 (1) There is established a separate nonlapsible trust fund designated as
7 the ~~health insurance risk-sharing plan~~ Health Insurance Risk-Sharing Plan fund,
8 ~~to consist of.~~ Moneys in the fund shall be expended only for the purposes specified
9 in s. 20.437 (1) (u) and (v).

10 SECTION 6. 25.55 (2) (intro.) of the statutes is created to read:

11 25.55 (2) (intro.) The fund shall consist of the following:

12 SECTION 7. 25.55 (3) of the statutes is renumbered ~~25.55~~ (2) (a).

13 SECTION 8. 25.55 (4) of the statutes is renumbered ~~25.55~~ (2) (b).

14 SECTION 9. Chapter 149 (title) of the statutes is amended to read:

15 CHAPTER 149

16 MANDATORY HEALTH INSURANCE

17 RISK-SHARING PLAN

18 SECTION 10. 149.10 (2) of the statutes is amended to read:

19 149.10 (2) "Board" means the board of ~~governors established under s. 149.15~~

20 ~~directors of the corporation~~ → 149.11 (1)

21 SECTION 11. 149.10 (2h) of the statutes is created to read:

22 149.10 (2h) "Corporation" means the Health Insurance Risk-Sharing Plan
23 Corporation.

24 SECTION 12. 149.10 (2m) of the statutes is renumbered 149.25 (1) (ac).

25 SECTION 13. 149.10 (3) of the statutes is amended to read:

Insert 3-13

149.11

1

2

directors

plain

1 149.10 (3) "Eligible person" means a resident of this state who qualifies under
2 s. 149.12 whether or not the person is legally responsible for the payment of medical
3 expenses incurred on the person's behalf.

4 ~~SECTION 14. 149.10 (3e) of the statutes is repealed.~~

5 ~~SECTION 15. 149.10 (4m) of the statutes is repealed.~~

6 ~~SECTION 16. 149.10 (6) of the statutes is repealed.~~

7 SECTION 17. 149.10 (9) of the statutes is amended to read:

8 149.10 (9) "Resident" means a person who has been legally domiciled in this
9 state for a period of at least 30 days 6 months or, with respect to an eligible individual,
10 an individual who resides in this state. For purposes of this chapter, legal domicile
11 is established by living in this state and obtaining a Wisconsin motor vehicle
12 operator's license, registering to vote in Wisconsin or filing a Wisconsin income tax
13 return. A child is legally domiciled in this state if the child lives in this state and if
14 at least one of the child's parents or the child's guardian is legally domiciled in this
15 state. A person with a developmental disability or another disability which prevents
16 the person from obtaining a Wisconsin motor vehicle operator's license, registering
17 to vote in Wisconsin, or filing a Wisconsin income tax return, is legally domiciled in
18 this state by living in this state.

****NOTE: This change in the length of time that a person must be domiciled in this state will apply to everyone who is not an eligible individual, as defined in s. 149.10 (2t). Is this what you meant by requiring a "high risk HIRSP eligible" to be a resident for 6 months?

19 SECTION 18. 149.10 (10) of the statutes is repealed.

20 SECTION 19. 149.11 of the statutes is repealed and recreated to read:

21 **149.11 Administration of plan. (1) HEALTH INSURANCE RISK-SHARING PLAN**

22 CORPORATION; FORMATION. The commissioner shall do all of the following:

1 (a) Draft and file articles of incorporation for a nonstock corporation under ch.
2 181 and take all actions necessary to exempt the corporation from federal taxation
3 under section 501 (a) of the Internal Revenue Code.

4 (b) Provide in the articles of incorporation filed under par. (a) all of the
5 following:

6 1. That the name of the corporation is the "Health Insurance Risk-Sharing
7 Plan Corporation."

8 2. That the corporate board shall consist of 13 directors, including 4
9 representatives of insurers, 4 representatives of health care providers, and 5
10 directors that represent employees and employers, including at least one
11 representative of small businesses.

****NOTE: Do you want to specify the length of the terms of the directors? If it is
not specified, it is one year [see s. 181.0805 (1)].

12 (c) Designate the initial directors as specified in par. (b) 2. after consulting with
13 one or more trade or professional associations whose members include insurers, one
14 or more trade or professional associations whose members include health care
15 providers that provide services to persons with coverage under the plan, one or more
16 trade or professional associations whose members include employees, and one or
17 more trade or professional associations whose members include small business
18 owners. → who purchase health is

19 (d) Draft bylaws for adoption by the corporate board.

20 (4) DUTIES. As a condition for the release of funds under ~~the~~ the
21 ~~corporate board~~ board, shall administer a plan of health insurance coverage for
22 ~~the persons that~~ the requirements of this chapter.

23 SECTION 20. 149.115 of the statutes is amended to read:

insert
5-22

Keep ↑

1 **149.115 Rules relating to creditable coverage.** The commissioner, in
2 ~~consultation with the department,~~ shall promulgate rules that specify how
3 creditable coverage is to be aggregated for purposes of s. 149.10 (2t) (a) and that
4 determine the creditable coverage to which s. 149.10 (2t) (b) and (d) applies. The
5 rules shall comply with section 2701 (c) of P.L. 104-191.

6 **SECTION 21.** 149.12 of the statutes is repealed and recreated to read:

7 **149.12 Eligibility.** (1) **CERTIFYING ELIGIBILITY.** The board shall certify as
8 eligible for coverage under the plan all of the following:

9 (a) An individual who is covered under the plan on the effective date of this
10 paragraph [revisor inserts date].

11 (b) An eligible individual.

12 (c) An individual who, within 9 months before applying for coverage under the
13 plan, receives notices of rejection or cancellation of coverage from 2 or more insurers
14 based wholly or partially on medical underwriting considerations.

15 (d) Other individuals who satisfy criteria established by the board.

16 **(B) 5 (3) VERIFYING ELIGIBILITY.** The board shall establish policies for determining
17 and verifying the continued eligibility of an eligible person. ✓

18 **SECTION 22.** 149.13 (1) of the statutes is amended to read:

19 149.13 (1) Every insurer shall participate in the cost of administering the plan,
20 except the commissioner may by rule exempt as a class those insurers whose share
21 as determined under sub. (2) would be so minimal as to not exceed the estimated cost
22 of levying the assessment. The commissioner shall advise the ~~department~~ board of
23 the insurers participating in the cost of administering the plan.

24 **SECTION 23.** 149.13 (3) (a) of the statutes is amended to read:

Insert 6-15 ✓

1 149.13 (3) (a) Each insurer's proportion of participation under sub. (2) shall be
2 determined annually by the commissioner based on annual statements and other
3 reports filed by the insurer with the commissioner. The commissioner shall assess
4 an insurer for the insurer's proportion of participation based on the total
5 assessments estimated by the ~~department under s. 149.143 (2) (a) 3.~~ board.

6 **SECTION 24.** 149.13 (3) (b) of the statutes is amended to read:

7 149.13 (3) (b) If the ~~department~~ board or the commissioner finds that the
8 commissioner's authority to require insurers to report under chs. 600 to 646 and 655
9 is not adequate to permit ~~the department,~~ the commissioner or the board to carry out
10 the ~~department's,~~ commissioner's or board's responsibilities under this chapter, the
11 commissioner shall promulgate rules requiring insurers to report the information
12 necessary for the ~~department,~~ commissioner and board to make the determinations
13 required under this chapter.

14 **SECTION 25.** 149.13 (4) of the statutes is amended to read:

15 149.13 (4) Notwithstanding subs. (1) to (3), the ~~department~~ board, with the
16 agreement of the commissioner, may perform various administrative functions
17 related to the assessment of insurers participating in the cost of administering the
18 plan.

19 **SECTION 26.** 149.14 (1) (a) of the statutes is renumbered 149.14 (1) and
20 amended to read:

21 149.14 (1) The plan shall offer coverage for each eligible person in an annually
22 renewable policy ~~the coverage specified in this section for each eligible person.~~ If an
23 eligible person is also eligible for ~~medicare~~ Medicare coverage, the plan shall not pay
24 or reimburse any person for expenses paid for by ~~medicare~~ Medicare.

25 **SECTION 27.** 149.14 (1) (b) of the statutes is repealed.

1 **SECTION 28.** 149.14 (2) (a) of the statutes is amended to read:

2 149.14 (2) (a) The plan shall provide every eligible person who is not eligible
3 for ~~medicare~~ Medicare with major medical expense coverage. Major medical expense
4 coverage offered under the plan under this section shall pay an eligible person's
5 covered expenses, subject to ~~sub. (3) and~~ deductible, copayment, and coinsurance
6 payments ~~authorized under sub. (5), up to a lifetime limit of determined by the board.~~
7 For eligible persons who have coverage under the plan on the effective date of this
8 paragraph [revisor inserts date], the lifetime limit is \$1,000,000 per covered
9 individual. The maximum limit under this paragraph for individuals who have
10 coverage under the plan on the effective date of this paragraph [revisor inserts
11 date], shall not be altered by the board, and no actuarially equivalent benefit may
12 be substituted by the board.

13 **SECTION 29.** 149.14 (3) of the statutes is repealed and recreated to read:

14 149.14 (3) **BENEFIT DESIGN.** Except as provided in subs. (2) (a) and (6), the board
15 shall determine the benefit design of the plan, including the covered expenses,
16 expenses excluded from coverage, deductibles, copayments, coinsurance,
17 out-of-pocket limits, and coverage limitations. The board shall establish a benefit
18 design that is comparable to a typical individual health insurance policy offered in
19 the private sector market in this state.

20 **SECTION 30.** 149.14 (4) of the statutes is repealed.

21 **SECTION 31.** 149.14 (4c) of the statutes is repealed.

22 **SECTION 32.** 149.14 (4m) of the statutes is renumbered 149.142 (2m) and
23 amended to read:

24 149.142 (2m) **PAYMENT IS PAYMENT IN FULL.** Except for copayments, coinsurance,
25 or deductibles required or authorized under the plan, a provider of a covered service

1 or article shall accept as payment in full for the covered service or article the payment
2 rate determined under ss. ~~149.142, 149.143 and 149.144~~ sub. (1) and may not bill an
3 eligible person who receives the service or article for any amount by which the charge
4 for the service or article is reduced under s. ~~149.142, 149.143 or 149.144~~ sub. (1).

5 **SECTION 33.** 149.14 (5) of the statutes is repealed.

6 **SECTION 34.** 149.14 (5m) of the statutes is repealed.

7 **SECTION 35.** 149.14 (6) (a) of the statutes is repealed.

8 **SECTION 36.** 149.14 (6) (b) of the statutes is renumbered 149.14 (6).

9 **SECTION 37.** 149.14 (7) (b) of the statutes is amended to read:

10 149.14 (7) (b) The department ~~corporation~~ has a cause of action against an
11 eligible participant for the recovery of the amount of benefits paid which are not for
12 covered expenses under the plan. Benefits under the plan may be reduced or refused
13 as a setoff against any amount recoverable under this paragraph.

14 **SECTION 38.** 149.14 (7) (c) of the statutes is amended to read:

15 149.14 (7) (c) The department ~~corporation~~ is subrogated to the rights of an
16 eligible person to recover special damages for illness or injury to the person caused
17 by the act of a 3rd person to the extent that benefits are provided under the plan.

18 Section 814.03 (3) applies to the department ~~corporation~~ under this paragraph.

19 **SECTION 39.** 149.14 (8) of the statutes is repealed.

20 **SECTION 40.** 149.141 of the statutes is created to read:

21 **149.141 Premiums and subsidies.** The board shall set premiums for
22 coverage under the plan at a level that is sufficient to cover 60 percent of plan costs,
23 as provided in s. 149.143 (1). The board may provide for subsidies for premiums,
24 deductibles, and copayments for eligible persons with household incomes below a
25 level established by the board.

Organization

1 SECTION 41. 149.142 (1) (a) of the statutes is renumbered 149.142 (1) and
2 amended to read:

3 149.142 (1) ESTABLISHMENT OF RATES. ~~Except as provided in par. (b), the~~
4 ~~department~~ The board shall establish provider payment rates for covered expenses
5 ~~that consist of the allowable charges paid under s. 49.46 (2) for the services and~~
6 ~~articles provided plus an enhancement determined by the department. The rates~~
7 ~~shall be based on the allowable charges paid under s. 49.46 (2), projected plan costs~~
8 ~~and trend factors. Using the same methodology that applies to medical assistance~~
9 ~~under subch. IV of ch. 49, the department shall establish hospital outpatient per visit~~
10 ~~reimbursement rates and hospital inpatient reimbursement rates that are specific~~
11 ~~to diagnostically related groups of eligible persons. The adjustments to the rates~~
12 shall be sufficient to cover 20 percent of plan costs, as provided in s. 149.143 (3).

13 SECTION 42. 149.142 (1) (b) of the statutes is repealed.

14 SECTION 43. 149.142 (2) of the statutes is repealed.

15 SECTION 44. 149.143 of the statutes is repealed and recreated to read:

16 149.143 **Payment of plan costs.** The ~~insurance~~ ^{board} shall pay plan costs,
17 including any premium, deductible, and copayment subsidies, as follows:

18 (1) Sixty percent from premiums paid by eligible persons.

19 (2) Twenty percent from insurer assessments under s. 149.13.

20 (3) Twenty percent from adjustments to provider payment rates under s.
21 149.142.

22 SECTION 45. 149.144 of the statutes is repealed.

23 SECTION 46. 149.145 of the statutes is repealed.

24 SECTION 47. 149.146 (1) (a) and (b) of the statutes are consolidated,
25 renumbered 149.14 (2) (c) and amended to read:

1 149.14 (2) (c) ~~Beginning on January 1, 1998, in~~ In addition to the coverage
2 required under s. 149.14 pars. (a) and (b), the plan shall offer to all eligible persons
3 who are not eligible for medicare Medicare a choice of coverage, as described in
4 section 2744 (a) (1) (C), P.L. 104-191. Any such choice of coverage shall be major
5 medical expense coverage. (b) An eligible person ~~under par. (a) who is not eligible~~
6 for Medicare may elect once each year, at the time and according to procedures
7 established by the ~~department~~ board, among the coverages offered under this section
8 and s. 149.14. ~~If an eligible person elects new coverage, any preexisting condition~~
9 ~~exclusion imposed under the new coverage is met to the extent that the eligible~~
10 ~~person has been previously and continuously covered under this chapter. No~~
11 ~~preexisting condition exclusion may be imposed on an eligible person who elects new~~
12 ~~coverage if the person was an eligible individual when first covered under this~~
13 ~~chapter and the person remained continuously covered under this chapter up to the~~
14 ~~time of electing the new coverage~~ paragraph and par. (a).

15 SECTION 48. 149.146 (2) of the statutes is repealed.

16 SECTION 49. 149.15 of the statutes is repealed.

17 SECTION 50. 149.16 of the statutes is repealed.

18 SECTION 51. 149.165 of the statutes is repealed.

19 SECTION 52. 149.17 of the statutes is repealed.

20 SECTION 53. 149.175 of the statutes is repealed.

21 SECTION 54. 149.20 of the statutes is repealed.

22 SECTION 55. 149.25 (3) (c) of the statutes is repealed.

23 SECTION 56. 601.41 (1) of the statutes is amended to read:

24 601.41 (1) DUTIES. The commissioner shall administer and enforce chs. 600 to
25 655 and ss. 59.52 (11) (c), 66.0137 (4) and (4m), 100.203, 120.13 (2) (b) to (g), and

✓
Insert 11-17
Insert 11-19
✓

1 149.13, ~~and 149.144~~ and shall act as promptly as possible under the circumstances
2 on all matters placed before the commissioner.

3 **SECTION 57.** 601.415 (12) of the statutes is amended to read:

4 601.415 (12) HEALTH INSURANCE RISK-SHARING PLAN. The commissioner shall
5 perform the duties specified to be performed by the commissioner in ~~ss. s. 149.13 and~~
6 ~~149.144. The commissioner, or his or her designee, shall serve as a member of the~~
7 ~~board under s. 149.15.~~

8 **SECTION 58.** 601.64 (1) of the statutes is amended to read:

9 601.64 (1) INJUNCTIONS AND RESTRAINING ORDERS. The commissioner may
10 commence an action in circuit court in the name of the state to restrain by temporary
11 or permanent injunction or by temporary restraining order any violation of chs. 600
12 to 655, ~~or s. 149.13 or 149.144~~, any rule promulgated under chs. 600 to 655, or any
13 order issued under s. 601.41 (4). The commissioner need not show irreparable harm
14 or lack of an adequate remedy at law in an action commenced under this subsection.

15 **SECTION 59.** 601.64 (3) (a) of the statutes is amended to read:

16 601.64 (3) (a) *Restitutionary forfeiture.* Whoever violates an effective order
17 issued under s. 601.41 (4), any insurance statute or rule, ~~or s. 149.13 or 149.144~~ shall
18 forfeit to the state twice the amount of any profit gained from the violation, in
19 addition to any other forfeiture or penalty imposed.

20 **SECTION 60.** 601.64 (3) (c) of the statutes is amended to read:

21 601.64 (3) (c) *Forfeiture for violation of statute or rule.* Whoever violates an
22 insurance statute or rule or s. 149.13 ~~or 149.144~~, intentionally aids a person in
23 violating an insurance statute or rule or s. 149.13 ~~or 149.144~~, or knowingly permits
24 a person over whom he or she has authority to violate an insurance statute or rule
25 or s. 149.13 ~~or 149.144~~ shall forfeit to the state not more than \$1,000 for each

1 violation. If the statute or rule imposes a duty to make a report to the commissioner,
2 each week of delay in complying with the duty is a new violation.

3 SECTION 61. 601.64 (4) of the statutes is amended to read:

4 601.64 (4) CRIMINAL PENALTY. Whoever intentionally violates or intentionally
5 permits any person over whom he or she has authority to violate or intentionally aids
6 any person in violating any insurance statute or rule of this state, s. 149.13 or
7 149.144, or any effective order issued under s. 601.41 (4) is guilty of a Class I felony,
8 unless a specific penalty is provided elsewhere in the statutes. Intent has the
9 meaning expressed under s. 939.23.

10 SECTION 62. 613.03 (4) of the statutes is amended to read:

11 613.03 (4) ~~MANDATORY HEALTH INSURANCE RISK-SHARING PLAN~~ HEALTH INSURANCE
12 RISK-SHARING PLAN. Service insurance corporations organized or operating under
13 this chapter are subject to the requirements that apply to insurers and insurance
14 under ch. 149.

15 SECTION 63. 632.785 (title) of the statutes is amended to read:

16 632.785 (title) Notice of mandatory risk-sharing plan Health Insurance
17 Risk-Sharing Plan.

18 SECTION 64. 632.785 (1) (intro.) of the statutes is renumbered 632.785 (1) and
19 amended to read:

20 632.785 (1) If an insurer issues ~~one or more of the following to a person a notice~~
21 of rejection or cancellation of coverage or takes any other action based wholly or
22 partially on medical underwriting considerations which is likely to render any
23 person eligible under s. 149.12 for coverage under ch. 149, the insurer shall notify
24 all persons affected of the existence of the ~~mandatory health insurance risk-sharing~~

Insert 13-14

1 plan Health Insurance Risk-Sharing Plan under ch. 149, as well as the eligibility
2 requirements and method of applying for coverage under the plan.

3 SECTION 65. 632.785 (1) (a) of the statutes is repealed.

4 SECTION 66. 632.785 (1) (b) of the statutes is repealed.

5 SECTION 67. 632.785 (1) (c) of the statutes is repealed.

6 SECTION 68. 632.785 (1) (d) of the statutes is repealed.

7

→ INSERT 14-6 ✓

(END)

D - note (after inserts)
↓

2005-2006 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0243/P2ins
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INSERT 3-13

TK
(added)

1 SECTION 1. 20.145 (5) of the statutes is created to read:

2 20.145 (5) HEALTH INSURANCE RISK-SHARING PLAN. (g) *Insurer assessments*. All

3 moneys received in insurer assessments under s. 149.13, to be paid to the board

4 under ch. 149.

5 SECTION 2. 20.435 (4) (u) of the statutes is repealed.

6 SECTION 3. 20.435 (4) (v) of the statutes is repealed.

7 SECTION 4. 25.17 (1) (gf) of the statutes is repealed.

8 ~~SECTION 5. 25.55 (title) of the statutes is repealed.~~

9 SECTION 6. 25.55 (intro.) of the statutes is repealed.

10 SECTION 7. 25.55 (3) of the statutes is renumbered 149.11 (2) (a) 1. and amended
11 to read:

12 149.11 (2) (a) 1. Insurer assessments under ch. 149 s. 149.13, paid to the board
13 under s. 20.145 (5) (g).

History: 1999 a. 9; 2003 a. 33.

14 SECTION 8. 25.55 (4) of the statutes is renumbered 149.11 (2) (a) 2. and amended
15 to read:

16 149.11 (2) (a) 2. Premiums paid by eligible persons under ch. 149.

History: 1999 a. 9; 2003 a. 33.

17 SECTION 9. 71.05 (1) (bm) of the statutes is created to read:

18 71.05 (1) (bm) *Health Insurance Risk-Sharing Plan*. Income of the
19 organization administering the Health Insurance Risk-Sharing Plan under ch. 149.

20 SECTION 10. 71.26 (1) (bn) of the statutes is created to read:

21 71.26 (1) (bn) *Health Insurance Risk-Sharing Plan*. Income of the
22 organization administering the Health Insurance Risk-Sharing Plan under ch. 149.

23 ~~SECTION 11. 71.45 (1) of the statutes is renumbered 71.45 (1) (a).~~

of
directors



(Im) ens 3-13 cont

1 SECTION 12. 71.45 (Im) of the statutes is created to read:
2 71.45 (Im) Health Insurance Risk-Sharing Plan. The income of the
3 organization administering the Health Insurance Risk-Sharing Plan under ch. 149
4 is exempt from taxation under this subchapter. ✓

(END OF INSERT 3-13)

INSERT 4-6

5 SECTION 13. 149.10 (3e) of the statutes is amended to read:
6 149.10 (3e) "Fund" means the ~~health insurance risk-sharing plan~~ Health
7 Insurance Risk-Sharing Plan fund under s. 149.11 (2). ✓

History: 1997 a. 27 ss. 3014 to 3024, 4814, 4817 to 4824; Stats. 1997 s. 149.10; 1999 a. 9; 2001 a. 38; 2003 a. 33.

(END OF INSERT 4-6)

INSERT 5-22

10 3

8 SECTION 14. 149.11 of the statutes is repealed and recreated to read:
9 149.11 Administration of plan. (1) APPOINTMENT OF BOARD OF DIRECTORS;
10 FORMATION OF ADMINISTERING ORGANIZATION. (a) No later than October 1, 2005, the
11 commissioner shall appoint 13 individuals to serve as the initial directors of the
12 board of the organization to be formed under par. (b). The board shall consist of 4
13 representatives of insurers, 4 representatives of health care providers that provide
14 services to persons with coverage under the plan, and 5 other members, at least one
15 of whom represents small businesses that purchase private health insurance, at
16 least one of whom is a person with coverage under the plan, and the remainder of
17 whom represent consumers. In making the appointments to the board, the
18 commissioner shall first consult with one or more trade or professional associations
19 whose members include insurers, one or more trade or professional associations



Ins 5-22 cont'd

288 3

1 whose members include health care providers that provide services to persons with
2 coverage under the plan, and one or more trade or professional associations whose
3 members include small business owners.

****NOTE: Because "insurer" is a defined term for purposes of HIRSP, any use of the word automatically means the insurers that pay the assessments.

4 (b) The individuals appointed under par. (a) shall form a private, nonprofit
5 organization under ch. 181 and shall take all actions necessary to exempt the
6 organization from federal taxation under section 501 (a) of the Internal Revenue
7 Code. The articles of incorporation shall include all of the following:

- 8 1. The names and addresses of the 13 individuals as the initial directors.
- 9 2. That the purpose of the organization is to administer the plan.
- 10 3. That the directors, including the initial directors, shall serve staggered
11 3-year terms.
- 12 4. That the commissioner shall appoint the directors, after consultation as
13 specified in par. (a), and that the directors shall satisfy the criteria specified in par.
14 (a).

15 (c) As a condition for the release of funds under s. 20.145 (5) (g), the
16 organization, through the board, shall administer the plan in conformity with this
17 chapter and perform any other duties required of the organization or board under
18 this chapter.

19 (2) FUND. (a) The board shall pay the operating and administrative expenses
20 of the plan from the fund, which shall be outside the state treasury and which shall
21 consist of all of the following:

- 22 3. The earnings resulting from investments under par. (b).
- 23 4. Any other moneys received by the organization or board from time to time.

↓

✓ Ins 5-22 cont'd 303

****NOTE: Subdivisions 1. and 2. above come from renumbered s. 25.55 (3) and (4).

1 (b) The board controls the assets of the fund and shall select regulated financial
2 institutions in this state that receive deposits in which to establish and maintain
3 accounts for assets needed on a current basis. If practicable, the accounts shall earn
4 interest.

5 (c) Moneys in the fund may be expended only for the purposes specified in par.

6 (a). ✓

7 (3) IMMUNITY. No cause of action of any nature may arise against and no
8 liability may be imposed upon the organization, plan, or board[;] for any agent,
9 employee, or director of any of them[;] or contributor insurers[;] for the commissioner[;]
10 or any of the commissioner's agents, employees, or representatives, for any act or
11 omission by any of them in the performance of their powers and duties under this
12 chapter.

(END OF INSERT 5-22)

INSERT 6-15

13 SECTION 15. 149.12 (1) (intro.) of the statutes is amended to read:
14 149.12 (1) (intro.) Except as provided in subs. (1m) and, (2), and (3), the board
15 or plan administrator shall certify as eligible a person who is covered by ~~medicare~~
16 Medicare[✓] because he or she is disabled under 42 USC 423, a person who submits
17 evidence that he or she has tested positive for the presence of HIV, antigen or
18 nonantigenic products of HIV, or an antibody to HIV, a person who is an eligible
19 individual, and any person who receives and submits any of the following based
20 wholly or partially on medical underwriting considerations within 9 months prior to
21 making application for coverage by the plan:

History: 1979 c. 313; 1983 a. 27, 215; 1985 a. 29, 73; 1987 a. 27, 70, 239; 1989 a. 201 s. 36; 1989 a. 332, 359; 1991 a. 39, 250; 1993 a. 27; 1995 a. 27, 407; 1997 a. 27 ss. 3025f, 4826 to 4831e; Stats. 1997 s. 149.12; 1999 a. 9.

↓

1

ins 6-15 contd 2 of 3

2

SECTION 16. 149.12 (1) (a) of the statutes is amended to read:

3

149.12 (1) (a) A notice of rejection of coverage from ~~one~~ [✓] 2 or more insurers.

History: 1979 c. 313; 1983 a. 27, 215; 1985 a. 29, 73; 1987 a. 27, 70, 239; 1989 a. 201 s. 36; 1989 a. 332, 359; 1991 a. 39, 250; 1993 a. 27; 1995 a. 27, 407; 1997 a. 27 ss. 3025f, 4826 to 4831e; Stats. 1997 s. 149.12; 1999 a. 9.

4

SECTION 17. 149.12 (1) (am) of the statutes is amended to read:

5

149.12 (1) (am) A notice of cancellation of coverage from ~~one~~ [✓] 2 or more insurers.

History: 1979 c. 313; 1983 a. 27, 215; 1985 a. 29, 73; 1987 a. 27, 70, 239; 1989 a. 201 s. 36; 1989 a. 332, 359; 1991 a. 39, 250; 1993 a. 27; 1995 a. 27, 407; 1997 a. 27 ss. 3025f, 4826 to 4831e; Stats. 1997 s. 149.12; 1999 a. 9.

6

SECTION 18. 149.12 (1m) of the statutes is amended to read:

7

149.12 (1m) The board ~~or plan administrator~~ [✓] may not certify a person as

8

eligible under circumstances requiring notice under sub. (1) (a) to (d) if the required

9

notices were issued by an insurance intermediary who is not acting as an

10

administrator, as defined in s. 633.01.

History: 1979 c. 313; 1983 a. 27, 215; 1985 a. 29, 73; 1987 a. 27, 70, 239; 1989 a. 201 s. 36; 1989 a. 332, 359; 1991 a. 39, 250; 1993 a. 27; 1995 a. 27, 407; 1997 a. 27 ss. 3025f, 4826 to 4831e; Stats. 1997 s. 149.12; 1999 a. 9.

11

SECTION 19. 149.12 (3) (a) of the statutes is amended to read:

12

149.12 (3) (a) Except as provided in pars. (b) [✓] ~~to (e)~~ [✓] and (bm), no person is eligible

13

for coverage under the plan for whom a premium, deductible, or coinsurance amount

14

is paid or reimbursed by a federal, state, county, or municipal government or agency

15

as of the first day of any term for which a premium amount is paid or reimbursed and

16

as of the day after the last day of any term during which a deductible or coinsurance

17

amount is paid or reimbursed.

History: 1979 c. 313; 1983 a. 27, 215; 1985 a. 29, 73; 1987 a. 27, 70, 239; 1989 a. 201 s. 36; 1989 a. 332, 359; 1991 a. 39, 250; 1993 a. 27; 1995 a. 27, 407; 1997 a. 27 ss. 3025f, 4826 to 4831e; Stats. 1997 s. 149.12; 1999 a. 9.

18

SECTION 20. 149.12 (3) (c) of the statutes is repealed.

19

SECTION 21. 149.12 (4) [✓] of the statutes is created to read:

20

149.12 (4) Subject to subs. [✓] (1m), (2), and (3), the board may establish criteria

21

that would enable additional persons to be eligible for coverage under the plan. The

22

board shall ensure that any expansion of eligibility is consistent with the purpose of



ins 6-15 cont'd 3 of 3

1 the plan to provide health care coverage for those who are unable to obtain health
2 insurance in the private market and does not endanger the solvency of the plan.

(END OF INSERT 6-15)

INSERT 11-17

3 **SECTION 22.** 149.155^x of the statutes is created to read:

4 **149.155 Additional duties of board.** The board shall do all of the following:

5 (1) Adopt policies for the administration of this chapter, including delegation
6 of any part of its powers and its own procedures.

7 (5) Annually submit a report to the legislature under s. 13.172 (2) and to the
8 governor on the operation of the plan.

****NOTE: Subsections (2) to (4) above come from renumbered s. 149.16 (3) (a) to (c).

9 **SECTION 23.** 149.16 (title)^x of the statutes is repealed.

10 **SECTION 24.** 149.16 (1m)^x of the statutes is repealed.

11 **SECTION 25.** 149.16 (3) (a)^x of the statutes is renumbered 149.155 (2) and
12 amended to read:

13 149.155 (2) ~~The plan administrator shall perform~~[✓] Perform all eligibility and
14 administrative claims payment functions relating to the plan.

History: 1997 a. 27 ss. 3030, 3031, 4882 to 4884c, 4886; 1999 a. 9; 2003^x a. 33.

15 **SECTION 26.** 149.16 (3) (b)^x of the statutes is renumbered 149.155 (3) and
16 amended to read:

17 149.155 (3) ~~The plan administrator shall establish~~[✓] Establish a premium billing
18 procedure for collection of premiums from insured persons. Billings shall be made
19 on a periodic basis as determined by the department board.

History: 1997 a. 27 ss. 3030, 3031, 4882 to 4884c, 4886; 1999 a. 9; 2003^x a. 33.

20 **SECTION 27.** 149.16 (3) (c)^x of the statutes is renumbered 149.155 (4), and
21 149.155 (4) (intro.), as renumbered, is amended to read:

↓

Ins 11-17 contd

1 149.155 (4) (intro.) ~~The plan administrator shall perform~~ Perform all necessary
2 functions to assure timely payment of benefits to covered persons under the plan,
3 including:

4 History: 1997 a. 27 ss. 3030, 3031, 4882 to 4884c, 4886; 1999 a. 9, 10, 33. ~~SECTION 28.~~ 149.16 (3) (e) of the statutes is repealed.

 ****NOTE: I repealed s. 149.16 (3) (e) because I thought it was clear from the
 composition of the fund and from s. 149.143 that premiums (as well as insurer
 assessments) will be used to pay claims.

5 ~~SECTION 29.~~ 149.16 (4) of the statutes is repealed.

6 ~~SECTION 30.~~ 149.16 (5) of the statutes is repealed.

(END OF INSERT 11-17)

INSERT 11-19

7 ~~SECTION 31.~~ 149.17 (1) of the statutes is amended to read:

8 149.17 (1) Subject to ~~ss. 149.14 (5m), s. 149.143 and 149.146 (2) (b),~~ a rating
9 plan calculated in accordance with generally accepted actuarial principles.

10 History: 1979 c. 313; 1983 a. 27; 1987 a. 27; 1991 a. 39; 1991 a. 27 ss. 4896 to 4900; Stats. 1997 s. 149.17; 1999 a. 9, 165.
10 ~~SECTION 32.~~ 149.17 (2) of the statutes is repealed.

11 ~~SECTION 33.~~ 149.17 (4) of the statutes is repealed.

(END OF INSERT 11-19)

INSERT 13-14

12 ~~SECTION 34.~~ 631.20 (2) (f) of the statutes is created to read:

13 631.20 (2) (f) In the case of a policy form under ch. 149, that the benefit design
14 is not comparable to a typical individual health insurance policy offered in the
15 private sector market in this state.

(END OF INSERT 13-14)

INSERT 14-6



INS 14-6
Ins 14-36

1 **SECTION 9121. Nonstatutory provisions; health and family services.**

2 (1) **HEALTH INSURANCE RISK-SHARING PLAN; TERMINATING ADMINISTRATOR**
3 **CONTRACT.**

4 (a) Because the legislature has determined that it is in the best interest of the
5 Health Insurance Risk-Sharing Plan[✓] to have the board created under section 149.11
6 (1) of the statutes, as affected by this act, administer the Health Insurance
7 Risk-Sharing Plan, the department of health and family services shall immediately
8 give written notice to the plan administrator under section 149.16, 2003 stats.,
9 terminating the contract between the department of health and family services and
10 the plan administrator. → 180 days after the notice is given[✓]

11 (b) Notwithstanding SECTION 9421 (1), if the treatment of sections 149.12 (1)
12 and (1m) and 149.16 of the statutes, as affected by this act, would, on January 1,
13 2006, impair any provision of the contract between the department of health and
14 family services and the plan administrator terminated under paragraph (a), the
15 treatment of sections 149.12 (1) and (1m) and 149.16 of the statutes, with respect to
16 the contract provisions that would be impaired, take effect on the 180th day after the
17 department of health and family services provides the written notice under
18 paragraph (a).

19 (c) Notwithstanding SECTION 9421 (1), if the contract under paragraph (a)^{a.s.}
20 between the department of health and family services and the plan administrator is
21 still in effect on January 1, 2006, and the treatment of sections[✓] 149.12 (1) and (1m)
22 and 149.16[✓] of the statutes, as affected by this act, would impair any provision of the
23 contract, the treatment of sections 149.12 (1) and (1m) and 149.16 of the statutes, as
24 affected by this act, with respect to the contract provisions that would be impaired,

↓

Ins 4-16 contd

1 takes effect on the 180th day after the department of health and family services
2 provides the written notice under paragraph (a). *as*

3 **SECTION 9221. Appropriation changes; health and family services.**

4 *auto ref a* (1) TRANSFERS FOR FUNDING HEALTH INSURANCE RISK-SHARING PLAN. The
5 unencumbered balances in the appropriation accounts under sections 20.435 (4) (u),
6 2003 stats., and *section* 20.435 (4) (v), 2003 stats., and in the Health Insurance Risk-Sharing
7 Plan fund under section 25.55, 2003 stats., immediately before the effective date of
8 this subsection, are transferred to the Health Insurance Risk-Sharing Plan fund
9 under section 149.11 (2) of the statutes, as affected by this act.

10 **SECTION 9321. Initial applicability; health and family services.**

11 (1) HEALTH INSURANCE RISK-SHARING PLAN; TRANSFER OF ADMINISTRATION. The
12 treatment of sections (X) of the statutes first applies to the plan year beginning on
13 January 1, 2006.

14 *auto ref b* (2) RESIDENCY FOR THE HEALTH INSURANCE RISK-SHARING PLAN. The treatment
15 of section 149.10 (9) of the statutes first applies to persons who submit applications
16 for coverage under the Health Insurance Risk-Sharing Plan on the effective date of
17 this subsection.

18 **SECTION 9421. Effective dates; health and family services.**

19 (1) HEALTH INSURANCE RISK-SHARING PLAN; TRANSFER OF ADMINISTRATION. The
20 treatment of sections (X) of the statutes and SECTIONS 9121 (1), 9221 (1) and 9321
21 (2) of this act take effect on January 1, 2006. *auto ref a*

auto ref b *****NOTE:** The (X) above (and in SECTION 9321 (1)) stand for the section numbers that take effect on January 1, 2006, which are virtually all of the sections in this draft that do not have in-text dates. If the ch. 149 provisions will eventually be renumbered into one of the insurance chapters, I did not want to itemize all of the section numbers and treatments in this version of the draft.

(END OF INSERT 14-6)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0243/P2dn
PJK:jld:rs

The provisions are
HIRSP ~~is~~ still located in ch. 149 in this draft. The provisions may be moved (renumbered) to one of the insurance chapters, if you wish, after the language is approved.

in effect
I discovered that the contract between DHFS and the plan administrator has a provision that allows DHFS to give 180 days² written notice to the plan administrator terminating the contract if it is in the best interest of DHFS or HIRSP. In that event, DHFS must pay the plan administrator only for services rendered to the point the contract is terminated under the notice. Because the budget bill will not take effect before July 1, 2005, at the earliest, 180 days³ written notice may extend the contract beyond January 1, 2006. However, there may be no extension, or it may be very short, if July 1 is the effective date of the budget and if DHFS gives the notice immediately⁴ ~~knowing that the requirement is in the budget~~. I have required that notice in a nonstatutory provision. (Note, however, that as of April 21 the contract still had not been signed. It is possible that when the budget passes there may not be an executed contract or that a contract with different terms may be in effect.)

Note that any unencumbered balances in the current HIRSP appropriation accounts and fund are transferred to the new fund immediately before their repeal on January 1, 2006. Is this okay?

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: pam.kahler@legis.state.wi.us

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0243/P2dn
PJK:jld:pg

April 25, 2005

The HIRSP provisions are still located in ch. 149 in this draft. The provisions may be moved (renumbered) to one of the insurance chapters, if you wish, after the language is approved.

I discovered that the contract between DHFS and the plan administrator has a provision that allows DHFS to give 180 days' written notice to the plan administrator terminating the contract if it is in the best interest of DHFS or HIRSP. In that event, DHFS must pay the plan administrator only for services rendered to the point the contract is terminated under the notice. Because the budget bill will not take effect before July 1, 2005, at the earliest, 180 days' written notice may extend the contract beyond January 1, 2006. However, there may be no extension, or it may be very short, if July 1 is the effective date of the budget and if DHFS gives the notice immediately. I have required that notice in a nonstatutory provision. (Note, however, that as of April 21 the contract still had not been signed. It is possible that when the budget passes there may not be an executed contract in effect or that a contract with different terms may be in effect.)

Note that any unencumbered balances in the current HIRSP appropriation accounts and fund are transferred to the new fund immediately before their repeal on January 1, 2006. Is this okay?

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: pam.kahler@legis.state.wi.us

5-13 meeting
w/ Nancy Wenzel

- ① p 4, lines 21 & 22 remove last language about
"the remainder"
- ② Nancy will get back to me on lifetime limit -
may stay as in current law
up ↑
- ③ need to add grievance procedure from
§ 149.15(3)(a) to - in 149.17(3)
- ④ add additional exclusions from budget
(i.e., 149.12(2)(g))
- ⑤ Senate confirmation of bd members nominated by
commissioners

Kahler, Pam

From: Ebersberger, Eric
Sent: Monday, May 16, 2005 11:04 AM
To: Kahler, Pam
Subject: RE: HIRSP changes

Thanks Pam.

As for the question re: the SEG funded positions: Normally when the appropriation is repealed and zeroed out in the Chapter 20 schedule the positions funded from that appropriation are deleted. In this case, 4.83 FTE are funded from appropriation 20.435 (4) (u) and would be deleted. Of those 4.83 FTE: 4 full-time positions and a half-time position are funded exclusively from the appropriation; and 0.125 of 2 different positions and 0.08 of another position are also funded from the appropriation. The four full time persons would lose their jobs, as would the half-time person. It would be up to DHFS to use other position authority if it wanted to make the other positions whole (i.e. those 1/8th and .08 funded from the appropriation). As for what happens to the individuals losing their jobs ... it would depend on whether they had bumping rights to other positions -- or other opportunities, but DHFS would be down 4.83 FTE. Let me know if you have additional questions.

Eric

-----Original Message-----

From: Kahler, Pam
Sent: Friday, May 13, 2005 4:29 PM
To: Ebersberger, Eric
Subject: HIRSP changes

Eric:

These are the changes to the HIRSP draft I gave you:

1. Adding grievance procedure language (s. 149.15 (3) (a)) to Board duties under s. 149.155.
2. Adding proposed s. 149.12 (2) (g) from the budget (excludes people eligible for certain other programs).
3. On page 4, lines 21 and 22 of the draft, get rid of "and the remainder of whom represent consumers."
4. Possibly keeping the lifetime limit as it is in current law - Nancy needs to talk to some people and then will let me know.
5. No mention of moving HIRSP to 600's, and I did not bring it up!

I have a question for you. Nancy was wondering what happens to the PR positions that are paid out of the HIRSP appropriations when those appropriations are repealed. Obviously those positions will no longer be paid out of those appropriations. How do you show what happens? I'm assuming that the overall number of positions authorized for DHFS does not decrease and that those positions must then be paid from other appropriations, but I'm not sure. Do you know?

I'll let you know what I hear from Nancy on the lifetime limit.

Pam

from 5-20 meeting
w/ Henry Wang

Additional:

- *1) ✓ retain language in 149.14 (3)
that requires HIRSP providers
to be Medicaid certifying
providers
- *2) ✓ Add part (b) to all
Medicare references
149.10 (7) 149.10 (2j)(a) 3. ✓
149.10 (2t) (c) ✓
- Jan
2006
- *3) ✓ Clarify 149.12 (2) (f) to
include Badger Care and
Medicaid waiver programs
- *4) ✓ Make sure HIRSP is a
State Pharmacy Assistance
Program (SPAP) as defined
in federal regulation
(42 CFR 423.464)
*bd shall seek to make sure that HIRSP
is one of these programs (need state
\$)
- *5) ✓ Repeal all of 149.25 (\$)

HIRSP
Coordinating Plan 2 with Medicare Part D
May 19, 2005

Key Points to Consider

- 1) Current statutes {149.14 (2) (b)} require that HIRSP provide an alternative policy for those persons eligible for Medicare which reduces the benefits payable by the amounts paid by Medicare. Medicare is defined at 149.10 (7) only as coverage under both Part A and Part B of the Social Security Act. Therefore, under current statutory authority, HIRSP cannot require Medicare eligibles to enroll in Medicare Part D.
- 2) Prescription drugs are identified in statute as a covered service. Statutes also say that the services covered under Plan 1 are also covered under Plan 2. Therefore HIRSP cannot discontinue coverage.
- 3) The Coordination of Benefits section of HIRSP statutes {149.14 (7)} specifies that covered expenses under HIRSP shall not include any charge for care for which benefits are payable under any governmental program. Therefore, while HIRSP cannot require Medicare eligibles to enroll in Medicare Part D, it appears that HIRSP could offer a Plan 2 option that would wrap around Part D drug coverage. The premiums would be set by the Department and Board through the existing emergency rule making authority. However, current statutes provide that the annual \$125 out-of-pocket drug coinsurance maximum can be changed only through the standard administrative rule making process. It is unlikely that the out-of-pocket maximum could be changed in sufficient time for a January 1, 2006 effective date. The biennial budget bill allows HIRSP to establish a 3-tiered drug co-payment. The bill further allows HIRSP to set Plan 2 out-of-pocket maximum at \$300 and also would allow the drug out-of-pocket maximum to be changed by emergency rule.
- 4) According to Medicare Part D regulations, if HIRSP were to wrap around Part D benefits, the amounts paid by HIRSP would not count toward the enrollee's "TrOOP" cost sharing requirements unless HIRSP is a State Pharmacy Assistance Program (SPAP) as defined in federal regulation (42 CFR 423.464) to:
 - Provide financial assistance for the purchase or provision of supplemental prescription drug coverage or benefits on behalf of Part D eligible individuals.
 - Provide assistance to Part D eligible individuals in all Part D plans without discriminating based upon the Part D plan in which an individual enrolls;

- Meet the benefit coordination requirements of Part D.
- Not follow or adopt rules that change or affect the primary payer status of a Part D plan.
- Provide supplemental drug coverage to individuals based on financial need, age or medical condition, and not based on current or former employment status.

Note: The definition of an SPAP excludes any program where funding is from a federal grant. There is also a question regarding whether or not an SPAP must be funded with state funds.

Options and Considerations

1) Create a new Plan 2 benefit. Plan 2A would be current Plan 2 with the \$125 OOP Max, but perhaps with a 20% rate increase. Plan 2B would increase the OOP Max from \$125 to a much higher amount (possibly \$750 which could reduce Rx claims by up to \$1.1 million based on CY04).

- The Department and Board could implement a premium increase so long as consistent with statutory requirements regarding how Plan 2 premiums are to be established.
- Changing the out-of-pocket maximum would require a change in administrative rule, but under the biennial budget bill this could be done through emergency rule-making..
- Enrollment in Plan 2B would be voluntary.
- HIRSP paid amounts only count toward TrOOP if an SPAP.

2) Create a new Plan 2 benefit option, with and without prescription drugs. Plan 2A would be current Plan 2 with the \$125 OOP Max, but with a 20% rate increase. Plan 2C would cover medical only at a much lower premium, with policyholder getting coverage for prescription drugs under Part D of Medicare.

- This could be done if the option is structured so that it is voluntary (i.e. the Plan 2 policyholder chooses the plan with drug coverage or voluntarily waives the drug coverage by opting for the alternate plan).
- Wrap around not an issue.

3) Change statutes to require individuals to purchase Part D just like they have to purchase Parts A & B of Medicare. HIRSP could then cover the supplement by covering the 25% coinsurance and all costs above \$2,250. This change could save HIRSP approximately \$2.6 million (1,738 x \$1,500 = \$2.6 million) based on CY04 costs.

- Statutory change.

Two
Plan 2
benefits

- 913 million
- HIRSP paid amounts only count toward TrOOP if an SPAP.
- 4) Continue current Plan 2, but increase the rates the full amount (approximately 20%) to encourage enrollment in Part D.
- The Department and Board could implement a premium increase so long as consistent with statutory requirements regarding how Plan 2 premiums are to be established.
 - HIRSP paid amounts only count toward TrOOP if an SPAP.
- 5) Continue status quo on Plan 2 and continue the additional Plan 2 increase in order to bring Plan 2 and Plan 1 loss ratios together over time. *not feasible*

Next Steps

- 1) Determine if HIRSP meets federal SPAP criteria.
- 2) Consider performing a prescription drug analysis to determine the appropriate premium scale for Plan 2. Currently Plan 2 has the same age slope as Plan 1. Since 80% of the cost for Plan 2 is from prescription drugs, the cost by age may be much flatter than what is currently being used. Increasing Plan 2 premiums at the younger ages (if warranted) may incent Plan 2 policyholders to purchase Part D.
 - a. Review actual Plan 2 medical costs by age.
 - b. Review variation in annual prescription drug cost per Plan 2 policyholder by age.

71.05 (1) (bm) *Health Insurance Risk-Sharing Plan.* Income of the
organization administering the Health Insurance Risk-Sharing Plan under ch. 149.

3 **SECTION 9.** 71.26 (1) (bn) of the statutes is created to read:

71.26 (1) (bn) *Health Insurance Risk-Sharing Plan.* Income of the
organization administering the Health Insurance Risk-Sharing Plan under ch. 149.

6 **SECTION 10.** 71.45 (1m) of the statutes is created to read:

7 **71.45 (1m)** HEALTH INSURANCE RISK-SHARING PLAN. The income of the
8 organization administering the Health Insurance Risk-Sharing Plan under ch. 149
9 is exempt from taxation under this subchapter.

10 **SECTION 11.** Chapter 149 (title) of the statutes is amended to read:

CHAPTER 149

MANDATORY HEALTH INSURANCE

RISK-SHARING PLAN

14 **SECTION 12.** 149.10 (2) of the statutes is amended to read:

15 149.10 (2) "Board" means the board of ~~governors established~~ directors under
16 s. ~~149.15~~ 149.11 (1).

17 SECTION 13. 149.10 (2m) of the statutes is renumbered 149.25 (1) (ac). ^{because} 149.25

18 **SECTION 14.** 149.10 (3) of the statutes is amended to read:

19 149.10 (3) "Eligible person" means a resident of this state who qualifies under
20 s. 149.12 whether or not the person is legally responsible for the payment of medical
21 expenses incurred on the person's behalf.

22 **SECTION 15.** 149.10 (3e) of the statutes is amended to read:

23 149.10 (3e) "Fund" means the ~~health insurance risk-sharing plan~~ Health
24 Insurance Risk-Sharing Plan fund under s. 149.11 (2).

25 **SECTION 16.** 149.10 (9) of the statutes is amended to read:

1 149.10 (9) "Resident" means a person who has been legally domiciled in this
2 state for a period of at least ~~30 days~~ 6 months or, with respect to an eligible individual,
3 an individual who resides in this state. For purposes of this chapter, legal domicile
4 is established by living in this state and obtaining a Wisconsin motor vehicle
5 operator's license, registering to vote in Wisconsin or filing a Wisconsin income tax
6 return. A child is legally domiciled in this state if the child lives in this state and if
7 at least one of the child's parents or the child's guardian is legally domiciled in this
8 state. A person with a developmental disability or another disability which prevents
9 the person from obtaining a Wisconsin motor vehicle operator's license, registering
10 to vote in Wisconsin, or filing a Wisconsin income tax return, is legally domiciled in
11 this state by living in this state.

12 **SECTION 17.** 149.10 (10) of the statutes is repealed.

13 **SECTION 18.** 149.11 of the statutes is repealed and recreated to read:

14 **149.11 Administration of plan. (1) APPOINTMENT OF BOARD OF DIRECTORS;**

15 **FORMATION OF ADMINISTERING ORGANIZATION.** (a) No later than ^{Sept 1, 2005} ~~October 1, 2005~~, the

16 commissioner shall appoint 13 individuals to serve as the initial directors of the
17 board of the organization to be formed under par. (b). The board shall consist of 4

18 representatives of insurers, 4 representatives of health care providers that provide

19 services to persons with coverage under the plan, and 5 other members, at least one

20 of whom represents small businesses that purchase private health insurance, ^{and} at

21 least one of whom is a person with coverage under the plan, ~~and the remainder of~~

22 ~~whom represent consumers.~~ In making the appointments to the board, the

23 commissioner shall first consult with one or more trade or professional associations

24 whose members include insurers, one or more trade or professional associations

25 whose members include health care providers that provide services to persons with

Add Senate Confirmation

1 wholly or partially on medical underwriting considerations within 9 months prior to
2 making application for coverage by the plan:

3 SECTION 21. 149.12 (1) (a) of the statutes is amended to read:

4 149.12 (1) (a) A notice of rejection of coverage from ~~one~~ 2 or more insurers.

5 SECTION 22. 149.12 (1) (am) of the statutes is amended to read:

6 149.12 (1) (am) A notice of cancellation of coverage from ~~one~~ ^{or} more insurers.

7 SECTION 23. 149.12 (1m) of the statutes is amended to read:

8 149.12 (1m) The board ~~or plan administrator~~ may not certify a person as
9 eligible under circumstances requiring notice under sub. (1) (a) to (d) if the required
10 notices were issued by an insurance intermediary who is not acting as an
11 administrator, as defined in s. 633.01.

12 SECTION 24. 149.12 (3) (a) of the statutes is amended to read:

13 149.12 (3) (a) Except as provided in pars. (b) ~~to (e)~~ and (bm), no person is eligible
14 for coverage under the plan for whom a premium, deductible, or coinsurance amount
15 is paid or reimbursed by a federal, state, county, or municipal government or agency
16 as of the first day of any term for which a premium amount is paid or reimbursed and
17 as of the day after the last day of any term during which a deductible or coinsurance
18 amount is paid or reimbursed.

19 SECTION 25. 149.12 (3) (c) of the statutes is repealed.

20 SECTION 26. 149.12 (4) of the statutes is created to read:

21 149.12 (4) Subject to subs. (1m), (2), and (3), the board may establish criteria
22 that would enable additional persons to be eligible for coverage under the plan. The
23 board shall ensure that any expansion of eligibility is consistent with the purpose of
24 the plan to provide health care coverage for those who are unable to obtain health
25 insurance in the private market and does not endanger the solvency of the plan.

*not in
current
law*

1 related to the assessment of insurers participating in the cost of administering the
2 plan.

3 SECTION 31. 149.14 (1) (a) of the statutes is renumbered 149.14 (1) and
4 amended to read:

5 149.14 (1) The plan shall offer coverage for each eligible person in an annually
6 renewable policy ~~the coverage specified in this section for each eligible person~~. If an
7 eligible person is also eligible for ~~medicare~~ Medicare coverage, the plan shall not pay
8 or reimburse any person for expenses paid for by ~~medicare~~ Medicare.

9 SECTION 32. 149.14 (1) (b) of the statutes is repealed.

10 SECTION 33. 149.14 (2) (a) of the statutes is amended to read:

11 149.14 (2) (a) The plan shall provide every eligible person who is not eligible
12 for ~~medicare~~ Medicare with major medical expense coverage. Major medical expense
13 coverage offered under the plan under this section shall pay an eligible person's
14 covered expenses, subject to sub. (3) and deductible, copayment, and coinsurance
15 payments authorized under sub. (5), up to a lifetime limit ~~of determined by the board~~.
16 For eligible persons who have coverage under the plan on the effective date of this
17 paragraph [revisor inserts date], the lifetime limit is \$1,000,000 per covered
18 individual. The maximum limit under this paragraph for individuals who have
19 coverage under the plan on the effective date of this paragraph [revisor inserts
20 date], shall not be altered by the board, and no actuarially equivalent benefit may
21 be substituted by the board.

22 SECTION 34. 149.14 (3) of the statutes is repealed and recreated to read:

23 149.14 (3) BENEFIT DESIGN. Except as provided in subs. (2) (a) and (6), the board
24 shall determine the benefit design of the plan, including the covered expenses,
25 (expenses excluded from coverage, deductibles, copayments, coinsurance,

maintain
lifetime
limit
of
\$1,000,000
Strike
last
sentence

add
subsidy
program
149.141
LRB-0243/P2
PJK&JK:jld:pg
SECTION 34

1 out-of-pocket limits, and coverage limitations. *all under* The board shall establish a benefit
2 design that is comparable to a typical individual health insurance policy offered in
3 the private sector market in this state. *allow no other one benefit design*
+ all must be comparable

4 SECTION 35. 149.14 (4) of the statutes is repealed.

5 SECTION 36. 149.14 (4c) of the statutes is repealed.

6 SECTION 37. 149.14 (4m) of the statutes is renumbered 149.142 (2m) and
7 amended to read:

8 149.142 (2m) PAYMENT IS PAYMENT IN FULL. Except for copayments, coinsurance,
9 or deductibles required or authorized under the plan, a provider of a covered service
10 or article shall accept as payment in full for the covered service or article the payment
11 rate determined under ~~ss. 149.142, 149.143 and 149.144~~ sub. (1) and may not bill an
12 eligible person who receives the service or article for any amount by which the charge
13 for the service or article is reduced under ~~s. 149.142, 149.143 or 149.144~~ sub. (1).

14 SECTION 38. 149.14 (5) of the statutes is repealed.

15 SECTION 39. 149.14 (5m) of the statutes is repealed.

16 SECTION 40. 149.14 (6) (a) of the statutes is repealed.

17 SECTION 41. 149.14 (6) (b) of the statutes is renumbered 149.14 (6).

18 SECTION 42. 149.14 (7) (b) of the statutes is amended to read:

19 149.14 (7) (b) The ~~department~~ organization has a cause of action against an
20 eligible participant for the recovery of the amount of benefits paid which are not for
21 covered expenses under the plan. Benefits under the plan may be reduced or refused
22 as a setoff against any amount recoverable under this paragraph.

23 SECTION 43. 149.14 (7) (c) of the statutes is amended to read:

24 149.14 (7) (c) The ~~department~~ organization is subrogated to the rights of an
25 eligible person to recover special damages for illness or injury to the person caused

1 by the act of a 3rd person to the extent that benefits are provided under the plan.

2 Section 814.03 (3) applies to the department organization under this paragraph.

3 SECTION 44. 149.14 (8) of the statutes is repealed.

4 *(8m) sub or subsidia*
SECTION 45. 149.141 of the statutes is created to read:

5 **149.141 Premiums and subsidies.** The board shall set premiums for
6 coverage under the plan at a level that is sufficient to cover 60 percent of plan costs,
7 as provided in s. 149.143 (1). *[* The board may provide for subsidies for premiums,
8 deductibles, and copayments for eligible persons with household incomes below a
9 level established by the board. *]* *Is this sufficient to replace 149.14(3)?*

10 SECTION 46. 149.142 (1) (a) of the statutes is renumbered 149.142 (1) and
11 amended to read:

12 149.142 (1) ESTABLISHMENT OF RATES. ~~Except as provided in par (b), the~~
13 ~~department~~ The board shall establish provider payment rates for covered expenses
14 ~~that consist of the allowable charges paid under s. 49.46 (2) for the services and~~
15 ~~articles provided plus an enhancement determined by the department.~~ *board* The rates
16 ~~shall be based on the allowable charges paid under s. 49.46 (2), projected plan costs~~
17 ~~and trend factors. Using the same methodology that applies to medical assistance~~
18 ~~under subch. IV of ch. 49, the department shall establish hospital outpatient per visit~~
19 ~~reimbursement rates and hospital inpatient reimbursement rates that are specific~~
20 ~~to diagnostically related groups of eligible persons. The adjustments to the rates~~
21 shall be sufficient to cover 20 percent of plan costs, as provided in s. 149.143 (3).

keep struck stuff
usual customer

22 SECTION 47. 149.142 (1) (b) of the statutes is repealed. *OK*

23 SECTION 48. 149.142 (2) of the statutes is repealed.

24 SECTION 49. 149.143 of the statutes is repealed and recreated to read:

OK - agreement
referenced in
149.17 (3)

1 SECTION 54. 149.15 of the statutes is repealed.

2 SECTION 55. 149.155 of the statutes is created to read:

3 149.155 Additional duties of board. The board shall do all of the following:

4 (1) Adopt policies for the administration of this chapter, including delegation
5 of any part of its powers and its own procedures.

6 (5) Annually submit a report to the legislature under s. 13.172 (2) and to the
7 governor on the operation of the plan.

****NOTE: Subsections (2) to (4) above come from renumbered s. 149.16 (3) (a) to (c).

8 SECTION 56. 149.16 (title) of the statutes is repealed. OK

9 SECTION 57. 149.16 (1m) of the statutes is repealed. OK

10 SECTION 58. 149.16 (3) (a) of the statutes is renumbered 149.155 (2) and
11 amended to read:

12 149.155 (2) ~~The plan administrator shall perform~~ Perform all eligibility and
13 administrative claims payment functions relating to the plan. OK

14 SECTION 59. 149.16 (3) (b) of the statutes is renumbered 149.155 (3) and
15 amended to read:

16 149.155 (3) ~~The plan administrator shall establish~~ Establish a premium billing
17 procedure for collection of premiums from insured persons. Billings shall be made
18 on a periodic basis as determined by the ~~department~~ board. OK

19 SECTION 60. 149.16 (3) (c) of the statutes is renumbered 149.155 (4), and
20 149.155 (4) (intro.), as renumbered, is amended to read:

21 149.155 (4) (intro.) ~~The plan administrator shall perform~~ Perform all necessary
22 functions to assure timely payment of benefits to covered persons under the plan,
23 including:

24 SECTION 61. 149.16 (3) (e) of the statutes is repealed.

****NOTE: I repealed s. 149.16 (3) (e) because I thought it was clear from the composition of the fund and from s. 149.143 that premiums (as well as insurer assessments) will be used to pay claims. o/c

1 SECTION 62. 149.16 (4) of the statutes is repealed. o/c

2 SECTION 63. 149.16 (5) of the statutes is repealed. o/c

3 SECTION 64. 149.165 of the statutes is repealed. * Does 149.141 adequately cover premium reductions for low income? o/c

4 SECTION 65. 149.17 (1) of the statutes is amended to read:

5 149.17 (1) Subject to ss. 149.14 (5m), s. 149.143 and 149.146 (2) (b), a rating
6 plan calculated in accordance with generally accepted actuarial principles.

7 SECTION 66. 149.17 (2) of the statutes is repealed. o/c

8 SECTION 67. 149.17 (4) of the statutes is repealed. o/c

9 SECTION 68. 149.175 of the statutes is repealed. o/c

10 SECTION 69. 149.20 of the statutes is repealed. o/c

11 SECTION 70. 149.25 (3) (c) of the statutes is repealed. repeal whole section

12 SECTION 71. 601.41 (1) of the statutes is amended to read:

13 601.41 (1) DUTIES. The commissioner shall administer and enforce chs. 600 to
14 655 and ss. 59.52 (11) (c), 66.0137 (4) and (4m), 100.203, 120.13 (2) (b) to (g), and
15 149.13, and 149.144 and shall act as promptly as possible under the circumstances
16 on all matters placed before the commissioner.

17 SECTION 72. 601.415 (12) of the statutes is amended to read:

18 601.415 (12) HEALTH INSURANCE RISK-SHARING PLAN. The commissioner shall
19 perform the duties specified to be performed by the commissioner in ss. s. 149.13 and
20 149.144. The commissioner, or his or her designee, shall serve as a member of the
21 board under s. 149.15.

22 SECTION 73. 601.64 (1) of the statutes is amended to read:

1 unless a specific penalty is provided elsewhere in the statutes. Intent has the
2 meaning expressed under s. 939.23.

3 SECTION 77. 613.03 (4) of the statutes is amended to read:

4 613.03 (4) ~~MANDATORY HEALTH INSURANCE RISK-SHARING PLAN~~ HEALTH INSURANCE
5 RISK-SHARING PLAN. Service insurance corporations organized or operating under
6 this chapter are subject to the requirements that apply to insurers and insurance
7 under ch. 149.

8 SECTION 78. 631.20 (2) (f) of the statutes is created to read:

9 631.20 (2) (f) In the case of a policy form under ch. 149, that the benefit design
10 is not comparable to a typical individual health insurance policy offered in the
11 private sector market in this state.

12 SECTION 79. 632.785 (title) of the statutes is amended to read:

13 632.785 (title) ~~Notice of mandatory risk-sharing plan~~ Health Insurance
14 Risk-Sharing Plan.

15 SECTION 80. 632.785 (1) (intro.) of the statutes is renumbered 632.785 (1) and
16 amended to read:

17 632.785 (1) If an insurer issues ~~one or more of the following to a person a notice~~
18 of rejection or cancellation of coverage or takes any other action based wholly or
19 partially on medical underwriting considerations which is likely to render any
20 person eligible under s. 149.12 for coverage under ch. 149, the insurer shall notify
21 all persons affected of the existence of the ~~mandatory health insurance risk-sharing~~
22 ~~plan~~ Health Insurance Risk-Sharing Plan under ch. 149, as well as the eligibility
23 requirements and method of applying for coverage under the plan.

24 SECTION 81. 632.785 (1) (a) of the statutes is repealed.

25 SECTION 82. 632.785 (1) (b) of the statutes is repealed.

OK

1 SECTION 83. 632.785 (1) (c) of the statutes is repealed.

2 SECTION 84. 632.785 (1) (d) of the statutes is repealed.

3 SECTION 9121. Nonstatutory provisions; health and family services.

4 (1) HEALTH INSURANCE RISK-SHARING PLAN; TERMINATING ADMINISTRATOR
5 CONTRACT.

6 (a) Because the legislature has determined that it is in the best interest of the
7 Health Insurance Risk-Sharing Plan to have the board created under section 149.11
8 (1) of the statutes, as affected by this act, administer the Health Insurance
9 Risk-Sharing Plan, the department of health and family services shall immediately
10 give written notice to the plan administrator under section 149.16, 2003 stats.,
11 terminating the contract between the department of health and family services and
12 the plan administrator 180 days after the notice is given.

13 (b) Notwithstanding SECTION 9421 (1), if the contract under paragraph (a)
14 between the department of health and family services and the plan administrator is
15 still in effect on January 1, 2006, and the treatment of sections 149.12 (1) and (1m)
16 and 149.16 of the statutes, as affected by this act, would impair any provision of the
17 contract, the treatment of sections 149.12 (1) and (1m) and 149.16 of the statutes, as
18 affected by this act, with respect to the contract provisions that would be impaired,
19 takes effect on the 180th day after the department of health and family services
20 provides the written notice under paragraph (a).

21 SECTION 9221. Appropriation changes; health and family services.

22 (1) TRANSFERS FOR FUNDING HEALTH INSURANCE RISK-SHARING PLAN. The
23 unencumbered balances in the appropriation accounts under section 20.435 (4) (u),
24 2003 stats., and section 20.435 (4) (v), 2003 stats., and in the Health Insurance
25 Risk-Sharing Plan fund under section 25.55, 2003 stats., immediately before the

does (1)
cover these
issues?

Kahler, Pam

From: Dsida, Michael
Sent: Friday, May 20, 2005 3:53 PM
To: Kahler, Pam
Subject: child support enforcement and licenses

It looks like s. 49.857 is a product of federal law -- so if I am creating a new certification process (which would allow probation officers to carry concealed weapons), do I HAVE TO provide for denial/refusal of certification/recertification if someone doesn't provide their ssn (or submit the substitute affidavit)? (Rep. Gunderson wants a short bill.)

Thanks!

need mon
am

LRB Number: 0243, 173

Nonsubmittal Form

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ATTORNEY.**

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or

|2| Return only the camera-ready copy to the primary drafting attorney.

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When the attorney finishes reviewing the draft, the attorney will bring the camera-ready copy back to the LPS room. If the attorney has found any typos or minor corrections, correct the draft as indicated and print out a new camera-ready copy. Take the final camera-ready copy, retrieve the drafting file from the HOLD basket in the LPS room, discard this form, place the camera-ready copy and the drafting file in the PA submit basket, and forward the electronic file to the PAs for submitting. (If, after reviewing the draft, the attorney decides to redraft it, give the attorney the drafting file and forward the electronic file to the attorney for drafting.)